



FIG. 6

The structure above is intended to *further stabilize* a static fixation device for the purpose of augmenting *spinal fusion*. According to Rogozinski at 6:45-67:

“A further embodiment of the present invention is shown in FIG. 6 and includes a cross-tie mechanism 300 to provide a quadrilateral construct similar to that discussed above. The cross-tie mechanism 300 includes two links 310 that are produced according to the teachings of the present invention which links are secured to respective bolts 50 substantially as described above. That is, locking nuts 70 cooperate with threaded portions 54 of bolts 50 to attach the latter to the links 310.

“The ends of the links 310 opposite bone bolts 50 are secured to each other by a locking bolt 150 and nut 170. The ends of the links 310 are overlapped on the bolt 150 and the nut 170 is threaded over and secured to the bolt 150 to lock the entire assembly. The cross-tie mechanism 300 provides a rigid quadrilateral construct which increases the torsional stability and pull-out strength. As seen in FIG. 6, bone bolts 50 are disposed in respective vertebrae (not shown) in a converging fashion which, when combined with a cross-tie mechanism, provide a configuration which increases the overall pull-out strength of the assembly. The cross-tie mechanism 300 also can be used at different locations along the length of the two constructs to form a ladder configuration.”

As can be seen from this disclosure, the cross-tie mechanism 300 shown in Figure 6 of Rogozinski is intended to provide “a rigid quadrilateral construct which increases the torsional stability and pull-out strength.” There is no first coupling which provides a limited degree of axial movement of each gliding arm to facilitate flexion, extension, and lateral bending. If the Examiner disagrees, the Examiner is invited to point out precisely where this is disclosed in Rogozinski.

Claim 4 adds to claim 1 that “the first coupling includes a slot on the plate and a pin on the gliding arm that slides along the slot.” The Examiner argues this is met by pin (52) of Rogozinski. However, (52) forms part of a *bone bolt* (see above). It is not a “pin on [a] gliding arm that slides along [a] slot.” If the Examiner disagrees, the Examiner is invited to point out precisely where Rogozinski teaches or suggests a pin on a gliding arm that slides along a slot.

Claim 6 adds to claim 1 that “the second coupling includes a slot on the gliding arm and a pedicle screw with a pin or ball that engages with the slot.” The Examiner states that this is met by Rogozinski but does not say where in Rogozinski such features may be found. Applicant respectfully request that the Examiner point this out.

Claim 7 adds to claim 1 that “the first coupling provides a limited degree of pivoting from side to side.” Where, exactly, is this disclosed in Rogozinski?

Claim 10 adds to claim 1 that the superior facet complex further includes an outer surface with soft tissue attachment points. Although this claim also stands rejected under rejected under 35 U.S.C. §102(b) over Rogozinski, the Examiner makes no specific references to the ‘682 patent. Unless the Examiner points out where in the cited reference such disclosure is found, Applicant cannot properly respond to the rejection.

Independent claim 11 includes, *inter alia*, the limitation of first and second couplings both providing a limited degree of axial movement of each gliding arm to facilitate flexion, extension, and lateral bending. Although this claim also stands rejected under rejected under 35 U.S.C. §102(b) over Rogozinski, the Examiner makes no specific references to the ‘682 patent. Unless the Examiner points out where in the cited reference such disclosure is found, Applicant cannot properly respond to the rejection.

Claim 15 adds to claim 11 that the lower ends of the gliding arms associated with the upper superior facet complex attach to the upper portion of the lower superior facet complex using pedicle screws, thereby facilitating a limited degree of flexion, extension, and lateral bending across multiple spinal levels. Although this claim also stands rejected under rejected under 35 U.S.C. §102(b) over Rogozinski, the Examiner makes no specific references to the ‘682 patent. Unless the Examiner points out where in the cited reference such disclosure is found, Applicant cannot properly respond to the rejection.

Anticipation may be established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. *RCA Corp. v. Applied Digital Data Systems*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation requires the presence of all elements of a claimed invention as arranged in the claim, such that a disclosure "that 'almost' meets that standard does not 'anticipate'." *Connell v. Sears, Roebuck Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983).

Based upon the foregoing, Applicant believes that all pending claims remain in condition for allowance. Questions may be directed to Applicant's attorney at the telephone and/or facsimile numbers provided below.

Respectfully submitted,

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CLAIMS

1. (Previously Presented) Spinal reconstruction apparatus, comprising:
 - a superior facet complex including a plate having an upper portion, a lower portion, and a vertical midline, with the upper portion being adapted for fixation to an upper vertebral body;
 - a pair of inferior gliding arms extending downwardly from the lower portion of the plate on respective sides of the midline, each gliding arm having a longitudinal axis that extends away from the midline at an angle, an upper end with a first coupling to the superior facet complex, and a lower end with a second coupling to a lower vertebral body;
 - at least the first coupling providing a limited degree of axial movement of each gliding arm to facilitate flexion, extension, and lateral bending.
2. (Previously Presented) The spinal reconstruction apparatus of claim 1, wherein the upper portion of the plate utilizes pedicle fixation.
3. (Previously Presented) The spinal reconstruction apparatus of claim 1, wherein the lower end of each gliding arm utilizes pedicle fixation.
4. (Previously Presented) The spinal reconstruction apparatus of claim 1, wherein the first coupling includes a slot on the plate and a pin on the gliding arm that slides along the slot.
5. (Previously Presented) The spinal reconstruction apparatus of claim 1, wherein the second coupling provides a limited degree of axial movement of each gliding arm.
6. (Previously Presented) The spinal reconstruction apparatus of claim 1, wherein the second coupling includes a slot on the gliding arm and a pedicle screw with a pin or ball that engages with the slot.
7. (Previously Presented) The spinal reconstruction apparatus of claim 1, wherein the first coupling provides a limited degree of pivoting from side to side.

8. (Previously Presented) The spinal reconstruction apparatus of claim 1, wherein the upper end of each gliding arm is received by a lower sleeve on either side of the plate.

9. (Canceled)

10. (Previously Presented) The spinal reconstruction apparatus of claim 1, wherein the superior facet complex further includes an outer surface with soft tissue attachment points.

11. (Previously Presented) Spinal reconstruction apparatus, comprising:

a superior facet complex including a plate having an upper portion, a lower portion, and a vertical midline, the upper portion being adapted for fixation to an upper vertebral body using pedicle screws;

a pair of inferior gliding arms extending downwardly from the lower portion of the plate on respective sides of the midline at outward angles, each gliding arm having a longitudinal axis, an upper end with a first coupling to the superior facet complex, and a lower end with a second coupling to a lower vertebral body using pedicle screws;

both the first and second couplings providing a limited degree of axial movement of each gliding arm to facilitate flexion, extension, and lateral bending.

12. (Previously Presented) The spinal reconstruction apparatus of claim 11, wherein the first coupling further provides a limited degree of pivoting from side to side.

13. (Previously Presented) The spinal reconstruction apparatus of claim 11, wherein the upper end of each gliding arm is received by a lower sleeve on either side of the plate.

14. (Previously Presented) The spinal reconstruction apparatus of claim 11, wherein the superior facet complex further includes an outer surface with soft tissue attachment points.

15. (Previously Presented) The spinal reconstruction apparatus of claim 11, further including:

an upper superior facet complex and a lower superior facet complex, both with gliding arms;
and

wherein the lower ends of the gliding arms associated with the upper superior facet complex attach to the upper portion of the lower superior facet complex using pedicle screws,

thereby facilitating a limited degree of flexion, extension, and lateral bending across multiple spinal levels.